

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	1

MR. SPEAKER:

Your Committee on **Government and Regulatory Reform**, to which was referred House Bill 1129, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 5-14-1.5-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. For the purposes of
- 4 this chapter:
- 5 (a) "Public agency" means the following:
- 6 (1) Any board, commission, department, agency, authority, or
- 7 other entity, by whatever name designated, exercising a portion of
- 8 the executive, administrative, or legislative power of the state.
- 9 (2) Any county, township, school corporation, city, town, political
- 10 subdivision, or other entity, by whatever name designated,
- 11 exercising in a limited geographical area the executive,
- 12 administrative, or legislative power of the state or a delegated
- 13 local governmental power.
- 14 (3) Any entity which is subject to either:
- 15 (A) budget review by either the department of local

- 1 government finance or the governing body of a county, city,
- 2 town, township, or school corporation; or
- 3 (B) audit by the state board of accounts.
- 4 (4) Any building corporation of a political subdivision of the state
- 5 of Indiana that issues bonds for the purpose of constructing public
- 6 facilities.
- 7 (5) Any advisory commission, committee, or body created by
- 8 statute, ordinance, or executive order to advise the governing
- 9 body of a public agency, except medical staffs or the committees
- 10 of any such staff.
- 11 (6) The Indiana gaming commission established by IC 4-33,
- 12 including any department, division, or office of the commission.
- 13 (7) The Indiana horse racing commission established by IC 4-31,
- 14 including any department, division, or office of the commission.
- 15 (b) "Governing body" means two (2) or more individuals who are:
- 16 (1) a public agency that:
- 17 (A) is a board, a commission, an authority, a council, a
- 18 committee, a body, or other entity; and
- 19 (B) takes official action on public business;
- 20 (2) the board, commission, council, or other body of a public
- 21 agency which takes official action upon public business; or
- 22 (3) any committee appointed directly by the governing body or its
- 23 presiding officer to which authority to take official action upon
- 24 public business has been delegated. An agent or agents appointed
- 25 by the governing body to conduct collective bargaining on behalf
- 26 of the governing body does not constitute a governing body for
- 27 purposes of this chapter.
- 28 (c) "Meeting" means a gathering of a majority of the governing body
- 29 of a public agency for the purpose of taking official action upon public
- 30 business. It does not include:
- 31 (1) any social or chance gathering not intended to avoid this
- 32 chapter;
- 33 (2) any on-site inspection of any project or program;
- 34 (3) traveling to and attending meetings of organizations devoted
- 35 to betterment of government; or
- 36 (4) a caucus;
- 37 **(5) a meeting between one (1) member of the governing body**
- 38 **and at least one (1) other individual who is not a member of**

1 **the governing body concerning public business;**
 2 **(6) a gathering to receive information about an industrial or**
 3 **commercial prospect that does not include a discussion of the**
 4 **terms of a request or an offer of public financial resources; or**
 5 **(7) a gathering for the sole purpose of administering an oath**
 6 **of office to an individual.**

7 (d) "Official action" means to:

- 8 (1) receive information;
- 9 (2) deliberate;
- 10 (3) make recommendations;
- 11 (4) establish policy;
- 12 (5) make decisions; or
- 13 (6) take final action.

14 (e) "Public business" means any function upon which the public
 15 agency is empowered or authorized to take official action.

16 (f) "Executive session" means a meeting from which the public is
 17 excluded, except the governing body may admit those persons
 18 necessary to carry out its purpose.

19 (g) "Final action" means a vote by the governing body on any
 20 motion, proposal, resolution, rule, regulation, ordinance, or order.

21 (h) "Caucus" means a gathering of members of a political party or
 22 coalition which is held for purposes of planning political strategy and
 23 holding discussions designed to prepare the members for taking official
 24 action.

25 (i) "Deliberate" means a discussion which may reasonably be
 26 expected to result in official action (defined under subsection (d)(3),
 27 (d)(4), (d)(5), or (d)(6)).

28 (j) "News media" means all newspapers qualified to receive legal
 29 advertisements under IC 5-3-1, all news services (as defined in
 30 IC 34-6-2-87), and all licensed commercial or public radio or television
 31 stations.

32 (k) "Person" means an individual, a corporation, a limited liability
 33 company, a partnership, an unincorporated association, or a
 34 governmental entity.

35 SECTION 2. IC 5-14-1.5-3.1 IS ADDED TO THE INDIANA
 36 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2007]: **Sec. 3.1. (a) A governing body of a**
 38 **public agency violates this chapter if members of the governing**

body participate in a series of at least two (2) gatherings of members of the governing body and the series of gatherings meets:

(1) the definition of "meeting" under section 2 of this chapter;

and

(2) all of the following criteria:

(A) Each gathering is attended by at least two (2) members but less than a quorum of the members of the governing body.

(B) The sum of the number of different members of the governing body attending any of the gatherings equals at least a quorum of the governing body.

(C) All the gatherings concern the same subject matter and are held within a period of not more than seven (7) days.

(D) The gatherings are held to take official action on public business.

For purposes of this subsection, a member of a governing body attends a gathering if the member is present at the gathering in person or if the member participates in the gathering by telephone or other electronic means, excluding electronic mail."

Page 2, delete lines 1 through 16.

Page 2, line 17, delete "(c)" and insert "(b)".

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 3. IC 5-14-1.5-6.1, AS AMENDED BY P.L.101-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:
 - (A) Collective bargaining.
 - (B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.
 - (C) The implementation of security systems.
 - (D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is

- 1 executed by the parties.
- 2 However, all such strategy discussions must be necessary for
- 3 competitive or bargaining reasons and may not include
- 4 competitive or bargaining adversaries.
- 5 (3) For discussion of the assessment, design, and implementation
- 6 of school safety and security measures, plans, and systems.
- 7 (4) Interviews with industrial or commercial prospects or agents
- 8 of industrial or commercial prospects by the Indiana economic
- 9 development corporation, the office of tourism development, the
- 10 Indiana finance authority, or ~~economic development~~
- 11 ~~commissions~~; **a governing body of a political subdivision.**
- 12 (5) To receive information about and interview prospective
- 13 employees.
- 14 (6) With respect to any individual over whom the governing body
- 15 has jurisdiction:
- 16 (A) to receive information concerning the individual's alleged
- 17 misconduct; and
- 18 (B) to discuss, before a determination, the individual's status
- 19 as an employee, a student, or an independent contractor who
- 20 is:
- 21 (i) a physician; or
- 22 (ii) a school bus driver.
- 23 (7) For discussion of records classified as confidential by state or
- 24 federal statute.
- 25 (8) To discuss before a placement decision an individual student's
- 26 abilities, past performance, behavior, and needs.
- 27 (9) To discuss a job performance evaluation of individual
- 28 employees. This subdivision does not apply to a discussion of the
- 29 salary, compensation, or benefits of employees during a budget
- 30 process.
- 31 (10) When considering the appointment of a public official, to do
- 32 the following:
- 33 (A) Develop a list of prospective appointees.
- 34 (B) Consider applications.
- 35 (C) Make one (1) initial exclusion of prospective appointees
- 36 from further consideration.
- 37 Notwithstanding IC 5-14-3-4(b)(12), a governing body may
- 38 release and shall make available for inspection and copying in

1 accordance with IC 5-14-3-3 identifying information concerning
2 prospective appointees not initially excluded from further
3 consideration. An initial exclusion of prospective appointees from
4 further consideration may not reduce the number of prospective
5 appointees to fewer than three (3) unless there are fewer than
6 three (3) prospective appointees. Interviews of prospective
7 appointees must be conducted at a meeting that is open to the
8 public.

9 (11) To train school board members with an outside consultant
10 about the performance of the role of the members as public
11 officials.

12 (12) To prepare or score examinations used in issuing licenses,
13 certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

14 (13) To discuss information and intelligence intended to prevent,
15 mitigate, or respond to the threat of terrorism.

16 (c) A final action must be taken at a meeting open to the public.

17 (d) Public notice of executive sessions must state the subject matter
18 by specific reference to the enumerated instance or instances for which
19 executive sessions may be held under subsection (b). The requirements
20 stated in section 4 of this chapter for memoranda and minutes being
21 made available to the public is modified as to executive sessions in that
22 the memoranda and minutes must identify the subject matter
23 considered by specific reference to the enumerated instance or
24 instances for which public notice was given. The governing body shall
25 certify by a statement in the memoranda and minutes of the governing
26 body that no subject matter was discussed in the executive session
27 other than the subject matter specified in the public notice.

28 (e) A governing body may not conduct an executive session during
29 a meeting, except as otherwise permitted by applicable statute. A

- 1 meeting may not be recessed and reconvened with the intent of
- 2 circumventing this subsection."
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1129 as introduced.)

and when so amended that said bill do pass.

Representative Stevenson